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SUBJECT: NFWP GOVERNMENT ANNOUNCES IMPLEMENTATION PLAN OF SHARI'A LAW  
IN SWAT

REF: Islamabad 323

CLASSIFIED BY: Lynne Tracy, Principal Officer, U.S. Consulate  
Peshawar, Department of State.  
REASON: 1.4 (d)

Summary  
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¶1. (C) On February 16, the Northwest Frontier Province (NWFP) government announced a commitment to implement Shari'a law in Swat following negotiations with the banned terrorist group Tehrik Nifaz-i-Shariat Muhammadi (TNSM). The provincial government is forwarding proposed amendments to the "Shari'a Nizam-i-Adl" regulation for President Zardari's approval. In return, TNSM leader (and father-in-law of Mullah Fazlullah) Sufi Mohammad has agreed to lead a delegation to Swat to persuade militants to lay down arms permanently. While Fazlullah's Tehrik-i-Taliban (TTP) was not explicitly linked to the deal, the militant group announced a 10-day cease fire on February 15 on the heels of the release of a Chinese engineer and reports of the release of 15 to 30 TTP sub-commanders from government custody. UNHCR plans to take advantage of the ceasefire to deliver humanitarian supplies into Swat.

¶2. (C) President Zardari called Ambassador February 16 to say he had no intention of signing any executive orders until the militants laid down their arms. Minister of Information Sherry Rehman, Awami National Party (ANP) deputy leader Afrasiab Khattak and other NWFP officials are emphasizing that implementation of Shari'a law is contingent upon "complete restoration of peace" in Swat. TTP is insisting that "once Islamic law is imposed, there will be no problems in Swat." These positions appear to represent the same collision course that essentially led to the failure of the government's deals and strategy in the spring of 2008 in Swat. There is no agreed upon revised Shari'a regulation for signature by Zardari; he has rejected several previous drafts and - particularly faced with broad international condemnation - remains reluctant to sign off on the amendments. The real immediate damage, however, is a deal that is sending a signal of government weakness and that provides space to militants to strengthen in Swat and adjacent NWFP districts. See reftel for Ambassador's discussion with Chief of Army Staff General Kayani on the Swat agreement. End Summary.

Shari'a Announcement -- Only a "Pledge"  
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13. (C) ANP's Khattak briefed Principal Officer February 16 following Chief Minister Hoti's public announcement of the provincial government's commitment to implement Shari'a law in the NWFP's Malakand Division (Swat, Malakand, Dir, Buner, Chitral districts) and Kohistan district. (Note: Khattak is really running the party with the lack of leadership and health issues of ANP leader Asfandiyar Wali Khan.) The Chief Minister, he said, had convened all NWFP political parties earlier in the day and gained unanimous support for the government's decision. Jamaat-i Islami (JI) which has traditionally had a strong base in northern areas of the NWFP boycotted the meeting, Khattak added. (Note: JI is chafing over the disputed results of a recent by-election and probably did not want ANP to get the political credit for this deal.)

14. (C) Khattak insisted that negotiations with TNSM's Sufi Mohammad resulted only in a "pledge" by the NWFP government to implement Shari'a. (Note: Sufi has had a "protest camp" set up in Lower Dir since October 2008, demanding the implementation of Shari'a law in the Malakand Division.) Implementation would only take place after a review and reform of the 1999 "Shari'a Nizam-i-Adl" regulation -- and once there is "complete restoration of peace" in Swat. In return for this pledge, Sufi has agreed to play a role in establishing peace in Swat by undertaking activities such as "leading police back to their stations." Khattak promised to provide the Consulate with a translated copy of the pledge and the proposed revisions to the 1999 Shari'a regulation.

#### Differences Between Now and Spring 2008?

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15. (C) PO observed that there appeared to be no appreciable differences between the government's deals in the spring of 2008 in Swat and the government's latest announcement. Given the failure of that strategy, PO asked why should TTP militants listen to Sufi now when they hadn't done so before? Khattak maintained that the government had not made an explicit commitment to Sufi to implement Shari'a in the earlier round of deals. (Note: While technically that appears to be accurate, the government's deal with Mullah Fazlullah did make that commitment.) Khattak also commented that the Pakistani military leadership and ISI had played a significant role in the latest round of negotiations, bringing pressure to strike a deal. ISI, he said, had very clearly acted as Sufi's "handler," coaching and coaxing him during discussions, particularly when he became difficult.

#### No Talks with TTP

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16. (C) Khattak said that the government had neither negotiated the 10-day ceasefire announced by TTP nor had any involvement in reported prisoner releases. "This was not part of our deal." PO queried what would happen if TTP launches further attacks on the government. "The army will be free to act decisively and will retaliate," he replied. (Note: Director General of Military Operations MG Javed Iqbal told Office of Defense Representative Pakistan Chief RADM Lefever February 16 much the same thing -- the army has no intention of leaving Swat in the near term. However, it is not clear whether army forces in Swat would remain at their present levels, particularly with other operational demands in the northern tribal areas, including Bajaur.) What would constitute "complete" restoration of peace, PO probed. That atmosphere, Khattak said, would be "obvious." An immediate period of some quiet though, Khattak continued, would give the police in Swat some breathing space to regroup. Tackling TTP's Fazlullah effectively, Khattak remarked, also depended on cutting off his support from Baitullah Mehsud.

#### Broader Implications for NWFP

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17. (C) PO asked about the broader implications of the pledge to implement Shari'a in Malakand Division. Would Shari'a be extended to other NWFP districts? The provincial government, Khattak said, would oppose applying the Shari'a regulation outside the Malakand Division. The Swat area had a different

legal history which made it possible to draw this line, he asserted. (Note: We are hearing that the government's announcement has set off calls for the implementation of Shari'a in Bajaur which is home to militants with TNSM roots.) In his press conference, NWFP Chief Minister Hoti insisted that the proposal for Shari'a law was in accordance with Pakistan's constitution, but legal experts already are disputing this claim. There is no agreement in Pakistan on what "Shari'a" law actually entails.

Comment

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18. (C) With the defacto collapse of the police in Swat, the army's inability to check the district's deteriorating security, and the increasing signs of creeping militancy in neighboring districts, Khattak made it clear that the government had chosen this course out of fear of "losing the whole Malakand Division." Past failed peace deals have tended to leave the militants with the advantage, in part because the government used breathing space to focus resources on other trouble spots. The government's ability to use the "breathing space" this time around to its advantage may depend on resources that the federal government and the international community can bring to bear quickly to strengthen the government's hand, particularly regarding law enforcement institutions, internally displaced persons, and the sagging morale of the military.

TRACY